

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ELISE BELL, individually and on behalf of  
all others similarly situated,

Plaintiff,

v.

GAME SHOW NETWORK, LLC, a  
Delaware limited liability company,

Defendant.

Case No. 18-cv-05393-RBL

**REQUEST FOR JUDICIAL NOTICE IN  
SUPPORT OF DEFENDANT GAME  
SHOW NETWORK'S MOTION TO  
DISMISS PROCEEDINGS AND  
COMPEL ARBITRATION**

Under Federal Rule of Evidence 201, a court may take judicial notice of a fact that is “not subject to reasonable dispute because it (1) is generally known within the trial court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(1)-(2).

Defendant Game Show Network respectfully requests that the Court take judicial notice of the attached true and correct copy of a Washington State Gambling Commission brochure entitled “Online Social Gaming: When is it legal? What to Consider” and consider it in support of Defendant’s concurrently filed Motion to Dismiss Proceedings and Compel Arbitration.

1 DATED this 2nd day of July, 2018.

2 s/ Michael E. Kipling

3 Michael E. Kipling, WSBA #7677

4 Marjorie A. Walter, WSBA #40078

5 Timothy M. Moran, WSBA #24925

6 **KIPLING LAW GROUP PLLC**

4464 Fremont Avenue N., Suite 300

Seattle, WA 98103

(206) 545-0345

7 [kipling@kiplinglawgroup.com](mailto:kipling@kiplinglawgroup.com)

8 [walter@kiplinglawgroup.com](mailto:walter@kiplinglawgroup.com)

[moran@kiplinglawgroup.com](mailto:moran@kiplinglawgroup.com)

9 James P. Fogelman (admitted *pro hac vice*)

10 Theane Evangelis (admitted *pro hac vice*)

11 Timothy W. Loose (admitted *pro hac vice*)

12 Reid F. Rector (admitted *pro hac vice*)

**GIBSON DUNN & CRUTCHER LLP**

333 S Grand Avenue

Los Angeles, California 90071

(213) 229-7000

14 [jfogelman@gibsondunn.com](mailto:jfogelman@gibsondunn.com)

15 [TEvangelis@gibsondunn.com](mailto:TEvangelis@gibsondunn.com)

16 [tloose@gibsondunn.com](mailto:tloose@gibsondunn.com)

[RRector@gibsondunn.com](mailto:RRector@gibsondunn.com)

17 *Counsel for Defendant Game Show Network, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 2nd day of July, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

DATED this 2nd day of July, 2018.

s/ Michael E. Kipling

Michael E. Kipling, WSBA #7677

**KIPLING LAW GROUP PLLC**

4464 Fremont Avenue N., Suite 300

Seattle, WA 98103

(206) 545-0345

(206) 545-0350 (fax)

[kipling@kiplinglawgroup.com](mailto:kipling@kiplinglawgroup.com)

*Counsel for Defendant Game Show Network, LLC*

# Attachment



### Get the facts to know the way to go.

Warning signs you may be playing on, or operating, an illegal Social Gaming website in Washington State:

- There is no way to play for free.
- The prize can be sold or redeemed for “real” money.
- Players must:
  - Pay “real” money to play.
  - Give banking information to collect a prize.
  - Call to start play.
  - Disclose personal information, such as a credit card number, social security number, etc.



## Washington State Gambling Commission

### Who We Are

- The Commission was created in 1973 to regulate and control authorized and illegal gambling activities (RCW 9.46).
- We are a law enforcement, regulatory and licensing agency.

### What We Do

- We license and regulate all authorized gambling in the state, except for horse racing and the State Lottery.
- We investigate and control unauthorized and illegal gambling activities.

### Our Mission

Protect the Public By Ensuring  
That Gambling is Legal and Honest.

Learn more about us at [wsgc.wa.gov](http://wsgc.wa.gov)



*This brochure gives general guidance.*

You should contact an attorney if you have questions or are unsure whether a game has the **3 elements** of gambling.

You may also contact us at:

(360) 486-3463

(800) 345-2529, ext. 3463

FAX (360) 486-3631

E-mail: [AskUs@wsgc.wa.gov](mailto:AskUs@wsgc.wa.gov)

Mail: P.O. Box 42400, Olympia, WA 98504-2400

Photos are ©iStockphoto by the following artists: Cover MerveKarahana / Laptop user gremlin, / blindfolded man DNY59, / @coin geopaul, / no cash value coin DNY59, / treasure chest bphillips.

GC5-027 (3/14)

# Online Social Gaming

When is it legal?  
What to Consider

Let's play a game



### What is Social Gaming?

The Oxford dictionary defines **Social Gaming** as the activity or practice of playing an online game on a social media platform, with a major emphasis on friends and community involvement.

Social Gaming ranges from tending a farm to playing a soldier in combat. Ideas for new games are constantly thought up. Some popular social games involve:

- Role playing;
- Adventure;
- Arcade style games; and
- Casino style games.

Social Gaming is growing at an unprecedented rate and with it comes questions. This brochure gives general guidance to help you determine if you are playing on, or operating, a legal Social Gaming website in Washington State.

*"Real" money = Legal tender, U.S. Currency.*



### Is Social Gaming Legal in Washington?

Social Gaming is legal in Washington State if no gambling takes place.

#### What is Gambling?

Gambling involves **3 elements**:

1. Prize;
2. Consideration (something of value, wager, fee to play); and
3. Chance.

**Legal:** If one of the **3 elements** of gambling is removed, the game is not gambling.

Things to keep in mind, to keep it legal:

- There must be a way to play for free.
- If "real" money can be used to enhance or extend play, there must be no prize.

**Illegal:** If a Social Game has the **3 elements** of gambling, it is illegal and cannot be played, or operated, in Washington State. It is illegal to solicit Washington residents to play illegal Social Games.

#### Website's Rules of Play:

- If you are thinking about participating in a Social Game, read the website's Rules or Terms of Use to determine if one of the **3 elements** of gambling is removed.
- Website operators should clearly state in their Rules that virtual money, points, and other items cannot be sold or redeemed for "real" money or prizes.

Washington State law defines gambling as:

"staking or risking something of value upon the outcome of a contest of chance or a future contingent event not under the person's control or influence, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome." (RCW 9.46.0237)



### No Prize = No Gambling = OK To Play

#### Buying virtual money:

Many Social Gaming websites give free virtual money to begin play, with an option to buy more virtual money with "real" money to continue play. All play uses this virtual money.



Legal Social Gaming websites will not let players cash in their virtual winnings or points for "real" money or prizes.



Because there is no prize, these games are **not** gambling. However, if the virtual money can be sold or redeemed for "real" money or a prize, the game is illegal.

#### Buying virtual prizes, avatars & tools:

If a player spends "real" money for a virtual prize, avatar or tool to assist with game play and these items cannot be sold or redeemed for "real" money or a prize, it's **not** gambling.



For example, let's say a player uses "real" money to purchase a key to open a chest containing a rare item that the player's character can use to advance their position in the game.

Even though "real" money is used to buy a key to get a rare item, neither the key or rare item have any real-world value because they cannot be sold or redeemed for "real" money. Because there is no prize, it's **not** gambling.